

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6279

BILL NUMBER: SB 65

NOTE PREPARED: Feb 15, 2007

BILL AMENDED: Feb 6, 2007

SUBJECT: Definition of Family or Household Member.

FIRST AUTHOR: Sen. Hershman

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill amends the definition of domestic battery to provide that the offense is committed if the prohibited behavior results in the bodily injury of a family or household member of the person engaging in the behavior. The definition of family or household member is expanded to include anyone who lived or formerly lived in the same household or when a divorce and remarriage occurred. It also makes conforming amendments.

Effective Date: July 1, 2007.

Explanation of State Expenditures: Under current law, domestic battery occurs when a person knowingly or intentionally touches another person in a rude, insolent, or angry manner that results in bodily injury. Bodily injury is defined in statute as "any impairment of physical condition, including physical pain" (IC 35-41-1-4).

For domestic battery to apply, the two individuals must either be married, formally married, have had a living arrangement that was similar to a marital arrangement, or have a child in common. The court reviews several factors to determine whether a person is or was living as a spouse with another person to determine whether there is or was an espousal relationship.

As proposed, domestic violence could be applied when the two people have the following relationships:

- is dating or has dated the other person;
- is or was engaged in a sexual relationship with the other person;
- is related by blood or adoption to the other person;
- has or previously had an established legal relationship as a guardian of the other person; as a

- ward of the other person; as a custodian of the other person;
- as a foster parent of the other person;
- lives or formerly lived in the same household; or
- when a divorce and remarriage occur.

The court would no longer be required to review several factors to determine whether a person is or was living as a spouse with another person to determine whether there is or was an espousal relationship.

Currently, battery and domestic battery are both Class A misdemeanors for a single incident, which can require up to six months of incarceration in a county jail. A conviction for domestic battery can result in a Class D felony if domestic battery occurs a second time or if done in the presence of a child under the age of 16.

Penalty Provision: A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner.

The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: *Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000. However, any additional revenues would likely be small.

Explanation of Local Expenditures: Courts would be able to issue protective orders in cases where two people lived in the same household but had no intimate relationship or when a divorce and remarriage occurred.

Penalty Provision: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

Explanation of Local Revenues: *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Code.

Fiscal Analyst: Mark Goodpaster, 317-232-9852.